

REMARKS

Claims 16 to 32 are added, and therefore claims 1, 2 and 4 to 32 are now pending and being considered.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph two (2), claims 1 and 3 to 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,307,001 ("Heavey").

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaack*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claim 1 is to a "*method for charging a battery .. the method comprising: in a first charging method, maintaining a substantially constant voltage.*" The "Heavy" reference does not disclose nor even suggest the claim feature "in a first *charging* process, maintaining a substantially constant voltage." The Office Action conclusorily points to column 9, lines 13 to 28, as assertedly disclosing this claim feature. It is respectfully submitted that the cited text does not relate to a "charging process" as provided in the context of the claimed subject matter.

In the text cited by the Office Action, the “Heavy” reference discusses a situation in which a *load* is placed on the battery, thereby triggering a *power supply mode* instead of a charge cycle. Thus, “[t]he system *does not initiate a charge cycle*.” (“Heavy”, column 9, lines 19 to 21, (emphasis added)). The constant voltage referred to by the “Heavy” reference relates to the *charger supplying a constant voltage to the load, not the battery*. Accordingly, the constant voltage relates to the load and not “charging a battery” as provided for in the context of the claimed subject matter. The “Heavy” reference further states its apparatus “detects any load put on the battery and immediately makes changes in the mode control from charge mode to power supply mode to reduce the voltage, and that if a “DC load is also placed on the battery. . . all in progress charging generators are put on hold,” and that when the loads are turned off the charge cycle resumes.” (*Id.* at column 7, lines 34 to 48). The actual charging voltage is provided by curve 602 of Figure 1 of the “Heavy” reference which indicates that during a charge, the voltage is increasing -- and not constant. Therefore, the “Heavy” reference does not disclose nor even suggest the claim feature of a “charging process,” therefore “maintaining a substantially constant voltage.”

Furthermore, the “Heavy” reference does not disclose nor even suggest the claim 1 feature of a “charging process” for taking measures resulting in *dynamization*.” The specification discloses that dynamization is performed by “forcing discharges or by temporarily increasing the charging voltage.” For example, in the present application, “a brief discharge is forced . . . at regular intervals during a charging phase.” (*Specification*, page 2, lines 12 to 16). In fact, claim 1 provides for “forcing discharges at predefined instants by one of switching on a predefined consumer and de-exciting a charging device.”

Any review of the text relied upon by the Office Action makes plain that dynamization is not disclosed nor even suggested, as provided for in the context of the claimed subject matter. For example, the “Heavy” system does not force discharges at regular intervals during a charging phase. Similarly, the “Heavy” system does not temporarily increase the charging voltage. As characterized, the “Heavy” provides for “changes in the mode control from charge mode to power supply mode to reduce the voltage” such that the load is not destroyed. (*See*, “Heavy”, column 7, lines 20 to 37). Further, this is not “forcing discharges at predefined instants” as provided for in the context of the claimed subject matter, but merely a reaction to a single event to prevent damage to the load. The specification discloses that “a brief discharge is forced in an advantageous manner at regular intervals during a charging phase.” (*Specification*, page 2, lines 15 to 16). This is done “to

prevent the usable capacity from being limited by acid stratification occurring in the battery.” The response to the load of the “Heavy” system is to prevent damage to the load. This does not disclose (nor suggest) forcing discharges at regular intervals to prevent the usable capacity from being limited by acid stratification of the battery.

Thus, even if two different charging processes were mentioned for battery charging -- which they are not, this is not done to provide the advantages and benefits resulting from the claimed subject matter, as provided for in the specification.

Therefore, the “Heavy” reference does not disclose nor even suggest all the features of claim 1. Accordingly, claim 1 is allowable, as are its dependent claims 2, 4 to 11 and 14.

Regarding the rejection of claim 3, it is respectfully submitted that claim 3 was canceled in a prior Response.

Claims 12, 13 and 15 include features like those of claim 1, and are therefore allowable for essentially the same reasons as claim 1.

New claims 16 to 32 do not add any new matter and are supported by the present application. Claims 16 to 29 depend from claim 15, and are therefore allowable for the same reasons. Claims 30 to 32 depend from claim 1, and are therefore allowable for the same reasons.

It is therefore respectfully submitted that claims 1, 2 and 4 to 32 are allowable.

Conclusion

It is therefore respectfully submitted that all of claims 1, 2 and 4 to 32 are allowable. It is therefore respectfully requested that the rejections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is respectfully requested.

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